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Counsel to Receiver Sherwood  
Partners, Inc.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

JOHN V. BIVONA; SADDLE RIVER  
ADVISERS, LLC; SRA  
MANAGEMENT ASSOCIATES, LLC;  
FRANK GREGORY MAZZOLA

Defendants, and

SRA I LLC; SRA II LLC; SRA III  
LLC; FELIX INVESTMENTS,  
LLC; MICHELE J. MAZZOLA;  
ANNE BIVONA; CLEAR  
SAILING GROUP IV LLC;  
CLEAR SAILING GROUP V LLC,

Relief Defendants.

Case No. 3:16-cv-1386

**EXPEDITED APPLICATION  
UNDER L.R. 7-11 FOR THE  
APPROVAL OF CLAIMS  
ADMINISTRATOR'S FEES  
AND ADDITIONAL WORK**

Date: No Date  
Time: No Time  
Judge: Edward M. Chen

**I. INTRODUCTION**

By this Application, the Receiver seeks Court (i) approval for payment to JND Corporate Services ("JND") of the \$15,000 authorized in the December 7, 2017 Order for claims notification work (Docket #283); (ii) approval for payment of another \$29,466.28 to JND for the "claim validation" work that the

1 Court directed the Receiver to undertake in the February 9, 2018 Order  
 2 (Docket #309) performed during the months of February and March 2018; and  
 3 (iii) if the Court believes that additional “claim validation” work is currently  
 4 needed, to authorize JND to continue billing at its current, hourly rates.<sup>1</sup>

5 **II. JND’S COMPLETION OF THE INITIAL CLAIM REGISTER**  
 6 **WORK AND THE ADDITIONAL WORK OF THE CLAIMS**  
 7 **PROCESS**

8 In an order dated December 7, 2017 (Docket # 283), the Court instructed  
 9 the Receiver to seek the Court’s permission before approving “additional work  
 10 by the administrator if the expenses have exceeded \$15,000.” That scope of  
 11 work was (i) to develop and mail the proof of claim forms; (ii) receive and  
 12 process the returned claims; (iii) and to maintain a database, or register of  
 13 claims received. (See: Docket ##’s 256, 275 and 282). This work was  
 14 substantially complete just prior to the status hearing on February 8, 2018, and  
 15 involved billings totalling \$14,782 for December 2017 and January 2018, while  
 16 the February 2018 billings were not then available. See: Declaration of  
 17 Hartheimer, (“Hartheimer Decl.”) accompanying this Application at ¶¶ 5-6.<sup>2</sup>  
 18 In any event, JND has performed the requested claims notice work, and the  
 19 Court should therefore approve payment of its billings for that work.

20 On February 9, 2018, the Court required the Receiver to “complete its  
 21 review, *including validation of the claims*, and to submit a report to the court in  
 22 approximately three weeks (italics added).” Docket #309. Thereafter, the  
 23 Receiver prepared a claim guideline memorandum (“the Memorandum”) which

24 <sup>1</sup> On March 21, 2018, this Court set a further CMC for May 10, 2018, vacated the then  
 25 upcoming April 5, 2018, hearing on the SEC’s pending Motion to Approve the Amended  
 26 Plan (“the Motion”) and denied (without prejudice to re-file) the Motion until “[after]  
 27 completion of the claims process”. The Court also instructed the Receiver, which had been  
 28 working with JND, to continue the “claim validation” work (Docket #320). Because JND  
 has stopped work pending authorization for its billings, the Receiver requests expedited  
 court approval through this Application.

<sup>2</sup> Through inadvertent oversight, the Receiver failed to inform the Court during the February  
 8 hearing that JND was already close to that limit, and would soon exceed it when it  
 undertook any additional work. Hartheimer Decl. at ¶¶ 5-6.

1 was designed to set parameters for the claim validation process to satisfy the  
 2 Court's request, and sent it to the parties for approval. (See: Exhibit A to  
 3 Docket #319) Hartheimer Decl. at ¶¶ 6 - 8. The Receiver directed that JND  
 4 undertake the bulk of the Claim Process, instead of Sherwood personnel, due to  
 5 the much lower cost structure of JND. Hartheimer Decl. at ¶¶ 6 and 13.

6 JND's cost for this additional scope of work, through March 20, 2018  
 7 when the Receiver filed its "First Preliminary Claims Report" ("the Report"),  
 8 was a then estimated, additional \$14,854, over the \$15,000 set in Docket #283.  
 9 Hartheimer Decl. at ¶ 11. While the Receiver did not formally request the  
 10 Court's permission to assign the additional scope of work to JND, it assumed  
 11 that, implicit within the February 8 hearing discussion with the Court, and in  
 12 the language of the February 9 order, there was sufficient authority to have  
 13 JND undertake the Claim Process, especially since JND could do so less  
 14 expensively.<sup>3</sup> Therefore, the Receiver requests that JND be paid \$29,466.28 for  
 15 all its work completed to the end of March 2018, as reflected in Exhibits A, B  
 16 and C to the Hartheimer Declaration.

### 17 **III. THE CURRENT STATUS OF CLAIM VALIDATION**

18 The Receiver believes that the work completed in the Report may  
 19 provide sufficient clarity to determine the existence and extent of any shortfalls  
 20 and had intended to discuss that view in the hearing previously set for April 5,  
 21 but then cancelled by Docket #320. The Receiver was prepared to make a  
 22 recommendation for a limited amount of clean up work to the Report and to  
 23 inform the Court of the estimated costs for such. Hartheimer Decl. at ¶ 10.  
 24 However, due to Docket #320's pressing command to the Receiver that it "act  
 25 expeditiously to have the claims administrator follow-up with prospective  
 26 claimants", the Receiver is now presented with a quandary; that is, without

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27 <sup>3</sup> If Docket #283 required a notification to the Court during the February 8 hearing, or a  
 28 written notice of some sort thereafter, the Receiver apologizes for this oversight. Hartheimer  
 Decl. at ¶¶ 2. Regardless, JND acted in good faith after receiving the Memorandum, worked  
 hard with JND to finish the validation work asked for in Docket #309, which became the  
 heart of the Report, and it should be paid for that work.

1 Court approval under Docket #283 further work by JND should not and cannot  
2 be undertaken, but any failure to undertake that work expeditiously will delay  
3 the progress of the Court and parties toward a decision on a Plan. Had the April  
4 5, 2018 hearing gone forward, this quandary would have been resolved.

5 The Receiver therefore respectfully requests further guidance from the  
6 Court by way of its approval for additional work to be performed by JND, as  
7 set out in the accompanying Declaration of Hartheimer. Hartheimer Decl. at ¶¶  
8 15 to 20. JND has submitted a proposed budget, and broken out by category  
9 (described as “buckets”) of yet to be validated claims, the estimated costs for  
10 validating those remaining claims. (See: Hartheimer Decl. Exhibit D; and ¶¶ 16  
11 to 18) Even completion of some of the proposed work will significantly  
12 increase the percentage of validated claims from the current 41% level. *Id.* at ¶  
13 16. For example, resolving the un-validated claim forms where a discrepancy  
14 in just one of the pre-IPO holdings renders the entire claim form un-validated  
15 would increase to about 70% the percentage of validated claims. *Id.* at ¶ 16.

#### 15 **IV. CONCLUSION**

16 The Receiver respectfully requests that the Court approve the costs of  
17 JND for all of its invoiced work through the end of March 2018, in the amount  
18 of \$29,466.28. The Receiver also requests that the Court permit JND to  
19 undertake additional work toward completing the Claims Process as set forth in  
20 Exhibit D to the accompanying Declaration of Hartheimer. The Receiver  
21 recommends that the Court permit the Receiver to direct JND to continue the  
22 additional work and decide which work should receive priority. Notably, JND  
23 has not performed any services since March 23, 2018, and will not perform  
24 further work until the Court provides further instructions.

25 The SEC has indicated to the Receiver’s counsel that it has no objection  
26 to the requested relief. Counsel for the SRA Investor’s Group, and investors  
27 Telesoft and Global Generation, have indicated that they will file a response to  
28 the application in any time set by the Court to do so.

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Respectfully submitted:

April 11, 2018

/s/ John W. Cotton

John W. Cotton  
Counsel to Sherwood Partners, Inc.